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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,941	01/09/2002	Michael Rothschild	21825	5439

535 7590 05/21/2004

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EXAMINER

KINDRED, ALFORD W

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 05/21/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/042,941

Applicant(s)

ROTHSCHILD ET AL.

Examiner

Alford W. Kindred

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/09/02.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,11,13-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 2-8,10,12,16,18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This action is responsive to communication: Pre-amendment filed on 3/28/02.

***Election/Restrictions***

2. During a telephone conversation with Herbert Dubno on 05/13/04 a provisional election was made without traverse to prosecute the invention of a data-sharing method, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claim 20 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Allowable Subject Matter***

3. Claims 2-9, 10, 12, 16, and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 9, 11,13-15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Maruyama et al., US# 6,212,520 B1.

As per claims 1 and 13, ***Maruyama et al.*** teaches “nonintrusively monitoring data written to said database log files and said database data files and communicating information as the data written to said files . . .” (see col. 3, lines 14-39) “having a secondary cache and secondary lock requests and responsive to data requests by other unaware applications” (see 10, lines 41-65) “processing data in said secondary DBMS between said other unaware applications and with said secondary cache and said secondary lock requests while reading data . . .” (see col. 5, lines 1-31) “isolating said non-cooperative DBMS from said other applications, thereby enabling said other unaware applications to access the data maintained by said non-cooperative DBMS” (see col. 6, lines 5-47).

As per claims 9, 14-15, and 17, these claims are rejected on grounds corresponding to the arguments given above for rejected claim 1 and are similarly rejected including the following:

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- ***Maruyama et al.*** teaches "a storage capacity sufficient to hold the entire contents of the data of at least one of said DBMSs" (see col. 6, lines 30-57).

As per claim 11, this claim is rejected on grounds corresponding to the arguments given above for rejected claim 1 and is similarly rejected including the following:

Maruyama et al. teaches "a time function keeping a transaction time for an entire duration of each transaction . . ." (see col. 3, lines 39-63 and col. 10, lines 41-65).

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***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US# 5,625,815.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alford W. Kindred whose telephone number is 703-305-3802. The examiner can normally be reached on Mon-Fri 9:00 am- 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (703) 305-4393. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alford W. Kindred  
Patent Examiner  
Tech Ctr. 2100